

Applicant : David R. Maas et al.  
Serial No. : 10/776,007  
Filed : February 10, 2004  
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Attorney's Docket No.: 13506-016001

### REMARKS

Claims 1-21 and 23-24 were pending in this application. Claims 1, 3, 6, 13-15, 17-18, and 20-21 have been amended. No claims have been cancelled.

Applicants thank the Examiner for acknowledging that previously presented dependent claims 9 and 21 would be allowable if rewritten in independent form. Applicants reserve the opportunity to rewrite dependent claims 9 and 21 into independent form at a later time.

Furthermore, Applicants would like to thank the Examiner for the telephone interview completed on August 11, 2005, in which the teaching of the McGuire reference was discussed. Independent claims 1 and 13 have been amended, as discussed in that interview, so as to fully distinguish the McGuire reference.

### Correction of Informalities

Independent claim 1 and dependent claims 3 and 6 have been amended to correct typographical errors (the term "axel" was changed to "axle"). Independent claim 13 has been amended to clarify the antecedent basis for the "frame assembly" recited in line 4 (the phrase "frame member" was changed to "frame assembly"). Dependent claims 14, 17-18, and 20-21 have amended accordingly to recite "frame assembly." Dependent claim 15 has been amended to clarify the antecedent basis for the front support means (the phrase "the at least one front support means" was changed to "the front support means").

No new matter has been added by these amendments. Applicants respectfully note that these claim amendments are made solely for the purposes of more clearly describing and claiming embodiments of the invention, and not for purposes of overcoming art or for patentability or narrowing the claims.

### Claim Rejections

Independent claims 1 and 13 and dependent claims 2-5, 7, 10, 14-17, and 19 were rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 2,111,478 to McGuire (hereinafter "McGuire"). Various other dependent claims were rejected under 35 U.S.C. § 103

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as being obvious over McGuire in view of U.S. Patent No. 6,425,161 to Lemeur, Jr. et al. (hereinafter "Lemeur") or in view of U.S. Patent No. 3,143,090 to Cecil et al. (hereinafter "Cecil"). As discussed in the aforementioned interview, independent claims 1 and 13 have been amended in order to fully distinguish McGuire.

Independent claim 1 describes a soil aerator that includes a frame assembly and an aeration device coupled to the frame assembly. The soil aerator also includes a weight transfer system coupled to the frame assembly, the weight transfer system having a biasing member that applies a moment to the frame assembly to transfer a portion of the frame assembly and aeration device's combined weight to the front axle member or the rear axle member.

Unlike claim 1, McGuire does not describe a weight transfer system "having a biasing member that applies a moment to the frame assembly." Rather, McGuire teaches that a drum 23 carries spikes 29 to engage the ground, the drum 23 being mounted to a sub-frame 14 capable of pivoting about a front axle 15. (*See id.*, col. 1, lines 51-52; FIG. 1.) As such, the sub-frame 14 can be angularly adjusted when a worker who is pushing the machine grasps the extension arms 22 to lift or lower the position of the sub-frame 14 (thereby raising or lowering the drum 23 and spikes 29). (*See id.*, col. 1, line 55 to col. 2, line 5.) Even if the position of the drum 23 can be incrementally adjusted (although only by the intervention of a worker) to apply more weight to a particular axle, McGuire does not teach that the arms 22 or any other components have a biasing member that applies a moment to the machine's frame as described in independent claim 1.

Neither Lemeur nor Cecil teach of those elements of claim 1 that are missing from McGuire's disclosure. Lemeur teaches of an industrial caster wheel assembly having no relation to a soil aerator, and Lemeur certainly does not teach applying a moment to a frame assembly of a soil aerator. (*See Lemeur*, Col. 1, lines 9-10.) Cecil describes an apparatus for injecting treatment liquids into soil (*see Cecil*, col. 1, lines 11-14), but does not teach of a weight transfer system having a biasing member that applies a moment to the frame.

Applicants respectfully submit that McGuire does not teach each and every element of independent claim 1 and thus does not anticipate claim 1. Further, independent claim 1 is not

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rendered obvious by McGuire, Lemeur, Cecil, or any combination thereof. As such, independent claim 1 and associated dependent claims 2-12 are patentable over the prior art of record.

Amended claim 13 describes weight transfer means for applying a moment to the frame assembly, the weight transfer means including a biasing means that applies a moment to the frame assembly. McGuire does not describe any weight transfer means that includes "a biasing means that applies a moment to the frame assembly." Lemeur and Cecil also lack those elements of claim 13 that are missing from McGuire's disclosure. Applicants respectfully submit that independent claim 13 and associated dependent claims 14-21 and 23-24 are patentable over McGuire, Lemeur, Cecil, or any combination thereof.

Claims 1-21 and 23-24 accordingly describe patentable subject matter and are in condition for allowance.

Applicant hereby specifically reserves the right to prosecute claims of different or broader scope in a continuation or divisional application. The Examiner should infer no (i) adoption of a position with respect to patentability, (ii) change in the Applicant's position with respect to any claim or subject matter of the invention, or (iii) acquiescence in any way to any position taken by the Examiner, based on such amendments. It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.


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Enclosed is a Petition for a Two-Month Extension of Time. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 10/4/05

  
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